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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/851,432 | 05/09/2001 | Jorg Dietrich | LINDE-566 | 2115 |

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EXAMINER

DUONG, THO V

ART UNIT PAPER NUMBER

3743

DATE MAILED: 07/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/851,432

Applicant(s)

DIETRICH, JORG

Examiner

Tho V Duong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 May 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8, 12, 13 and 15-24 is/are pending in the application.
- 4a) Of the above claim(s) 19-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8, 12, 13 and 15-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION***Election/Restrictions***

Newly submitted claims 19-24 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Invention of claims 8,12,13,15-18 and an invention of claims 19-24 are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the plate heat exchanger block can be made by another and materially different process such as riveting, gluing the connecting piece to the heat exchanger block. *

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 19-24 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the claimed subject matter of "the housing has an inlet opening of a selected area and wherein the header has a corresponding outlet area...enclosing a corresponding area" is not described in the specification.

Response to Arguments

Applicant's arguments filed 5/28/2002 have been fully considered but they are not persuasive. Applicant's argument that none of the references disclose the that steel and aluminum members being bonded together by plate explosive, has been very carefully considered but is not deem to be persuasive. As stated in the previous office action, the method of forming the device "explosive plating" is not germane to the issue of patentability of the device itself. Therefore, the limitation "explosive plating" has not been given patentable weight.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8,12,13 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davidian et al. (US 6,347,662) in view of Takahashi Eiji (JP 04081288). Davidian discloses (figure 1) a plate heat exchanger block comprising a housing; a plurality of aluminum sheets (8) forming a plurality of heat-exchange passages; at least one steel header (1) in communication with at least some of the heat-exchange passages wherein steel header and aluminum sheet can not be welded to one another. Davidian does not disclose that a connecting piece consisting of steel on one side and aluminum on the other side so that the steel header is welded to the steel

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side of the connecting piece. Takahashi teaches (figure 7) about using a connecting piece (3) consisting of steel on one side (4) and aluminum on the other side (5) so that steel material (1) is welded to the steel side (4) and aluminum material (2) is welded to the aluminum side (5) to join steel material and aluminum material together. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use Takahashi's teaching in Davidian's heat exchanger to join the steel header material to the aluminum sheet. As regards claims 17 and 18, Davidian discloses the headers (1) have outlet areas corresponding to openings at corner areas of the housing. As disclosed by Takahashi, the intermediate piece (3) is disposed between two joining pieces and in contact with the pieces. Since Davidian discloses that the header (1) is peripherally bonded to the heat exchange block (7), it is inherently that the newly modified intermediate piece (3) is at least present at the periphery of the header to join the steel header to the aluminum heat exchange block. The method of forming the device "explosive plating" is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Tho Duong whose telephone number is (703)305-0768. The examiner can normally be reached on from 8:30 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennet, can be reached on (703)308-0101. The fax phone number for the organization where this application or proceeding is assigned is (703)308-7764.

Any inquiry of a general nature or relating to status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0861.

Tho Duong

July 10, 2002.



Henry Bennett
Supervisory Patent Examiner
Group 3700